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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of Section 309(j)
of the Communications Act
Competitive Bidding

PP Docket No. 93-253

RECEIVED

(NOV 30 1993)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF
TELEPHONE ELECTRONICS CORPORATION

James U. Troup
Laura Montgomery
Arter & Hadden
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006
(202) 775-7960

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SUMMARY

Telephone Electronics Corporation ("TEC") hereby responds to comments submitted in the FCC proceeding regarding competitive bidding for personal communications services ("PCS") licenses. TEC supports those commenters who agree that the Commission should set aside spectrum limited to bidding by designated entities such as rural telephone companies and small businesses. TEC also agrees with those who support financial incentives such as installment payment plans, royalty payments based on gross revenues from PCS and lower upfront payments for designated entities.

TEC does not agree with those who would limit rural telephone companies to bidding only for licenses which cover their own service areas and with those who would define rural telephone companies and small businesses too narrowly. TEC also advocates the use of combinatorial bidding by designated entities, and agrees that a group of designated entities may form a consortium and not lose their status as designated entities.

TEC believes that bidding should be performed state by state. The Commission should auction all of the channels in the most populous states in descending order of population size. This will allow smaller companies to obtain necessary information concerning the value of each market, and will also allow licensees to determine whether they have obtained enough spectrum covering sufficient population to merit additional bids in the same area.

TEC requests that the Commission promulgate its final rules in this proceeding while keeping in mind the special concerns of rural telephone companies and small businesses.

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COMMENTS OF
TELEPHONE ELECTRONICS CORPORATION

Telephone Electronics Corporation ("TEC"), by its attorneys and pursuant to Section 1.415(c) of the Commission's rules, respectfully submits this reply to comments filed on or about November 10, 1993, in response to the Notice of Proposed Rulemaking ("NPRM") released October 12, 1993, in the above-captioned proceeding.¹

I. INTRODUCTION

Telephone Electronics Corporation is a Mississippi holding company for, among other entities, six small independent local exchange carriers in Tennessee, Alabama and Mississippi. These local exchange carriers are Bay Springs Telephone Company, Inc., in Bay Springs, Mississippi, Crockett Telephone Company in Friendship, Tennessee, National Telephone Company of Alabama in Cherokee, Alabama, Peoples Telephone Company in Erin, Tennessee, Roanoke Telephone Company in Roanoke, Alabama, and West Tennessee Telephone Company in Bradford, Tennessee. Bay Springs Telephone Company is

¹ Notice of Proposed Rulemaking, Implementation of Section 309(j) of the Communications Act Competitive Bidding, PP Docket No. 93-253, FCC 93-455, 8 FCC Rcd _____ (released October 12, 1993).

the largest, serving 9,658 access lines and fourteen rural communities in Mississippi. National Telephone Company of Alabama is the smallest, serving 1,983 access lines and three Alabama exchanges.

In its initial comments in this rulemaking proceeding, TEC supported the Commission's proposed set aside of a certain amount of spectrum for designated entities such as small businesses and rural telephone companies. Contrary to the claims of some, the Commission has the legal authority to advance the interests of small businesses and rural telephone companies as a class. Congress intended these designated entities to participate in the provision of PCS, and only by ensuring that some of them receive licenses may this goal be achieved.

TEC recommended that in defining what constitutes a rural or small telephone company, the Commission employ definitions particular to the telecommunications industry. The Commission's proposal to define rural telephone companies in terms of a cable programming rule excludes too many telephone companies that are rural service providers. A better definition is one that the Commission already has under consideration. Rural telephone companies are companies whose local exchanges serve places with populations of 10,000 or fewer persons. Likewise, small telephone companies should be defined under existing Commission rules as those with 50,000 or fewer access lines and annual operating revenues under \$40 million. Alternatively, the Small Business Administration definition of a small communications provider as one with under 1,500 employees is also reasonable.

TEC also recommended that consortia composed of rural telephone companies or small businesses be allowed to bid upon Channels C and D, and that they be permitted to aggregate the spectrum of the two channels. If small or rural telephone companies can bid as consortia they may be better able to attract capital. Small or rural telephone companies will increase their chances of operating a successful PCS business in the long run by pooling their limited resources to achieve the economies of scale necessary for success. Designated entities should be allowed to bid for geographic combinations as well. Businesses which are not designated entities should not be allowed to participate in bidding upon Channels C and D because Congress did not intend them to receive special consideration.

TEC recommended that the Commission, when defining which businesses owned by women or members of minority groups are allowed to bid upon the set-aside channels, adhere to the language of the statute and accord preferences only to those where women or members of minority groups possess at least 50.1 percent equity ownership in an applicant. Anything less is not true ownership. It may constitute some participation by members of these groups, but it is not actual ownership. In fact, if the Commission allows applicants which provide only some lesser degree of participation to women and minorities to bid on spectrum, it will lessen the chances of obtaining licenses for those applicants who are actually owned and controlled by members of these groups. Additionally, TEC agrees with those who propose that minority or women owners also be

required to have operational control over capital calls and capital expenditures.

After reviewing the comments of other parties to this proceeding, TEC has the following response.

II. THE COMMISSION HAS THE LEGAL AUTHORITY TO DESIGNATE A SPECIFIC AMOUNT OF SPECTRUM FOR DESIGNATED ENTITIES

Both the clear language of the statute and the legislative history establish that Congress intended the Commission to ensure the participation of designated entities in the provision of PCS. Congress did not mean that designated entities merely have the opportunity to try, but that they actually participate. Those who argue that the Commission does not have authority to set aside spectrum as proposed in the NPRM are incorrect.

BellSouth Corporation, BellSouth Telecommunication, Inc., BellSouth Cellular Corp and Mobile Communications Corporation of America ("BellSouth") oppose the creation of set-aside channels for designated entities.² BellSouth would prefer that the Commission accord designated entities special treatment in the form of installment payments, the use of credit facilities in meeting deposit and upfront payments, and other financial incentives.³

BellSouth argues that because Congress did not intend to dictate by statute that spectrum be set aside for designated entities that the Commission should therefore not do so.⁴ What

² Comments of BellSouth Corporation, BellSouth Telecommunication, Inc., BellSouth Cellular Corp and Mobile Communications Corporation of America, PP Docket No. 93-253, filed Nov. 10, 1993.

³ Comments of BellSouth at 19.

⁴ Comments of BellSouth at 18, 20-21.

this approach ignores is that although Congress decided against mandating that the Commission award licenses without competitive bidding to rural telephone companies alone, Congress did not prohibit the Commission from deciding which course best fulfilled the Congressional objective of disseminating licenses among a wide variety of applicants. Congress, in other words, decided to allow the Commission to apply its expertise and pursue the course it thought would best disseminate licenses among a wide variety of applicants, including those designated by Congress: small businesses, rural telephone companies, and businesses owned by members of minority groups and women. Indeed, review of the legislative history, upon which BellSouth so heavily leans, supports this construction rather than that advanced by BellSouth.

BellSouth relies mainly on a House Report to support its contention that the House "indicated a strong distaste for set-asides in any context."⁵ Inspection of the language in question shows nothing more significant than a Congressional refusal to dictate to the Commission on this question. "The Committee has never dictated -- by statute -- that the Commission issue specific licenses to specific individuals or companies...."⁶ This does not mean that the Commission cannot limit some bidding on licenses to certain classes of service providers such as small businesses or rural telephone companies. It only means that Congress would not

⁵ Comments of BellSouth at 20.

⁶ Comments of BellSouth at 20 (citing H.R. Conf. Rep. No. 103-111, 103d Cong., 1st Sess. 257 (1993)).

force the outcome. Indeed, review of the Conference Agreement shows that it

also modifies the House provision to include a provision, based on but not identical to a Senate provision, that requires the Commission to ensure that small businesses, rural telephone companies, and businesses owned by minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences and other procedures.⁷

The use of "other procedures" establishes that Congress meant the Commission to determine which procedures to employ. Congress intended the Commission to decide.

Although BellSouth may be correct regarding the legality of a set-aside on the basis of race or gender,⁸ its arguments concerning minorities and women do not apply to rural telephone companies and small businesses.⁹ Sprint Corporation's ("Sprint") arguments along these same lines are equally inapplicable.¹⁰ Classifications that do not apply to a suspect class or infringe upon fundamental constitutional rights "must be upheld against equal protection

⁷ H. R. Conf. Rep. No. 103-213, 103d Cong., 1st Sess. (1993) (emphasis added).

⁸ See Comments of BellSouth at 21 n. 31.

⁹ If the Commission insists on establishing race and gender set-asides, TEC agrees with those parties who would limit preferences to businesses owned by women or minorities where the designated entities have an equity share of at least 50.1% and operational control. TEC urges the Commission to adopt, in addition to the equity requirement, the proposal put forward by the Small Business Administration ("SBA"). The SBA proposed that the designated entity's operational control extend to decisions concerning capital expenditures. Comments of the Chief Counsel for Advocacy of the United States Small Business Administration on the Notice of Proposed Rulemaking at 16, PP Docket No. 93-253, filed Nov. 10, 1993.

¹⁰ Comments of Sprint Corporation at 11, PP Docket No. 93-253, filed Nov. 10, 1993.

challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification."¹¹ Small businesses and rural telephone companies do not belong to a suspect class. Unlike the justifications required for race and gender distinctions, there need be no legislative record justifying economic classifications.¹² The Commission is free under both the statute and the Constitution to set aside spectrum for rural telephone companies and small businesses.

BellSouth also attempts more pragmatic arguments against a set-aside channel. BellSouth maintains that the set-aside blocks "are smaller, in less desirable portions of the band, and limited in market size to BTAs."¹³ Although this is all true, it provides no rationale for making the situation worse. BellSouth's notion that financial incentives could substitute for spectrum ignores an important Congressional goal. Congress did not just want to make sure that a wide variety of applicants bid upon spectrum, but that the Commission disseminate licenses to a wide variety of applicants, including rural telephone companies and small businesses, so that they may participate in providing PCS.¹⁴ BellSouth would be content if designated entities showed up for the auctions. Congress, however, intended designated entities to provide service.

¹¹ Federal Communications Commission v. Beach Communications, Inc., 113 S. Ct. 2096, 2101 (1993).

¹² Id. at 2102; Nordlinger v. Hahn, 112 S. Ct. 2326, 2334 (1992).

¹³ Comments of BellSouth at 22.

¹⁴ See infra n. 9.

BellSouth argues that the manufacturing community will have less incentive to respond to the requirements of set-aside spectrum blocks.¹⁵ Why this should be the case, BellSouth does not say. If manufacturers are slow in responding to service providers with between 20 and 30 MHz of spectrum, then by that same logic they will have nothing to do with the licensees of a mere 10 MHz. In light of the numerous 10 MHz channels created by the PCS Order, it does not appear that manufacturers are likely to ignore the designated entities.

Sprint speculates that rural telephone companies will outbid the other designated entities.¹⁶ Sprint maintains that because rural telephone companies have a cash flow and access to capital that they will outbid companies headed by women and minorities.¹⁷ This ignores the fact that there are no size limits on businesses owned by women and minorities, which means that businesses with more assets than rural telephone companies will be able to outbid them. The diversity inherent in the group of designated entities means that rural telephone companies may find themselves bidding against much larger companies.

BellSouth and Sprint both express concern that speculation in the after market will lead to those other than designated entities holding the licenses.¹⁸ The Commission's proposed rules against

¹⁵ Comments of BellSouth at 22.

¹⁶ Comments of Sprint Corporation at 9, PP Docket No. 93-253, filed Nov. 10, 1993.

¹⁷ Id.

¹⁸ Comments of BellSouth at 23; Comments of Sprint at 12.

trafficking and warehousing will prove a successful guard against such occurrences. Sprint itself recognizes the efficacy of safeguards.¹⁹

Accordingly, because economic classifications such as those contemplated in the NPRM on behalf of rural and small telephone companies are lawful and permitted under the statute, and because they will ensure participation by designated entities in the provision of PCS, TEC requests that the Commission abide by its original intent to set spectrum aside.

III. RURAL AND SMALL TELEPHONE COMPANIES SHOULD BE ACCURATELY
DEFINED AND AWARDED THE SAME PREFERENCES AS OTHER
DESIGNATED ENTITIES

A. Rural Telephone Companies Must be Accurately
Defined

In its initial comments, TEC proposed that rural telephone companies be defined as those whose local exchanges serve places of 10,000 or fewer persons. Numerous commenters support this same proposal,²⁰ and some even suggest higher numbers.²¹ TEC agrees

¹⁹ See Comments of Sprint at 12-15.

²⁰ See, e.g., Comments of the National Telephone Cooperative Association ("NTCA") at 7, PP Docket No. 93-253, filed Nov. 10, 1993 (proposing a limit of 10,000 access lines or a 10,000 person population limit); Comments of the Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO") at 3, 5-6, PP Docket No. 93-253, filed Nov. 10, 1993; Comments of McCaw Cellular Communications, Inc. ("McCaw") at 19-20, PP Docket No. 93-253, filed Nov. 10, 1993; Joint Comments of Rocky Mountain Telecommunications Association and Western Rural Telephone Association at 20, PP Docket No. 23-253, filed Nov. 10, 1993 (defining a rural area, in part, as one with fewer than 10,000 persons).

²¹ See, e.g., Comments of the Chief Counsel for Advocacy of the United States Small Business Administration on the Notice of Proposed Rulemaking at i, 13-14, PP Docket No. 93-253, filed Nov. 10, 1993 (proposing a 10,000 to 50,000 access line limit); Comments
(continued...)

with the 10,000 person threshold and agrees that sound arguments have been presented by these other parties.

One commenter, however, supported the initial proposal to define a rural telephone company as one whose service area contains no incorporated or unincorporated place of 2,500 persons or more.²² For the same reasons that TEC opposed this limit in its comments, it opposes such a narrow construction.²³ The 2,500 persons per place limit was devised in the context of finding telephone companies small enough to merit an exemption to the general prohibition on providing cable programming. Even in that context, the Commission has proposed to expand the limit to 10,000 persons. Finally, a 2,500 person threshold does not realistically reflect the rural status of TEC's local exchange carriers.

The rural local exchange carriers that are part of the TEC holding company should not be aggregated together for purposes of determining whether they are still rural.²⁴ That TEC is a holding

²¹(...continued)
of CFW Communications Company at 1, PP Docket No. 93-253, filed Nov. 10, 1993 (proposing a definition of fewer than 50,000 access lines); Joint Comments of Rocky Mountain Telecommunications Association and Western Rural Telephone Association at 19 (proposing a limit of 20,000 or fewer access lines).

²² AT&T's Comments at 26 n. 31, PP Docket No. 93-253, filed Nov. 10, 1993.

²³ See also Comments of the United States Telephone Association ("USTA") at 3, PP Docket No. 23-253, filed Nov. 10, 1993.

²⁴ See also Comments of USTA at 3-4.

company does not turn these six rural local exchange carriers into urban telephone companies.²⁵

B. Rural Telephone Companies Should be Allowed to
Bid on Set-Aside Channels Outside their Own
Service Areas

The Commission should allow rural telephone companies to bid for licenses outside their service areas. If the Commission forbids such bidding, it will prevent consortia composed of rural telephone companies from being able to bid in the set-aside channels. Moreover, allowing rural telephone companies to bid outside their own service areas would avoid the administrative delays and inconvenience of trying to match BTAs and telephone service areas when the fact of the matter is that BTAs and telephone service areas do not have the same boundaries. Other commenters agree.²⁶

Some commenters hope that the Commission will limit rural telephone companies to their own service areas. AT&T mentioned without discussion that rural telephone companies should not receive preferences for any license that does not include a portion of the telephone company's own service area.²⁷ NTCA suggests that limiting rural telephone companies to the BTAs encompassing their own service areas in the set-aside spectrum would cause

²⁵ For purposes of combinatorial bidding, TEC has already requested in its initial comments that the Commission not aggregate the statistics of each of TEC's local exchange carriers for purposes of determining whether they are small businesses or rural telephone companies.

²⁶ See, e.g., Comments of OPASTCO at 6-7.

²⁷ AT&T's Comments at 26 n. 31. Cf. Comments of BellSouth at 28.

dispersal among geographic areas.²⁸ According to the SBA, a rural telephone company should lose its rural status if it bids for a license to serve the more populated communities adjacent to its rural service area.²⁹ The SBA claims that the rationale for providing special treatment to rural telephone companies is only to ensure the rapid deployment of PCS in rural service areas.³⁰ Allowing rural telephone companies the same latitude as other designated entities would not undercut this goal. Rural telephone companies have every incentive to make sure that they provide PCS to their customers. Additionally, they will be better able to provide PCS to rural areas at lower prices if they can also serve more populated areas.

Another reason to provide the same preferences to rural telephone companies as to other designated entities is because they, like small businesses, do not have access to the kind of capital that large carriers have. Indeed, if a rural telephone company is able to bid on any BTA within the set-aside channels, it will become more attractive to investors and is likely to be able to build a system with the economies of scale that come with greater size. This will increase the chances that not only can the rural telephone company build a PCS system but that the enterprise turns out to be financially successful and stays in operation.

In the case of the TEC companies, a service territory limit would prevent them from entering into consortia with each other.

²⁸ Comments of NTCA at 8.

²⁹ Comments of SBA at 15.

³⁰ Id.

Small carriers may need to pool their resources in order to bid on spectrum, but this restriction would keep Bay Springs Telephone Company, which provides service in Mississippi, from entering into a venture with any of the Tennessee carriers, for example, because it would be bidding outside its service area. A service area restriction, in other words, would effectively prevent rural telephone companies from forming their own consortia or even, perhaps, from participating in those of other designated entities.

A service area limitation is inequitable. The Commission has not proposed that small businesses be limited in their bidding only to the BTA housing the headquarters of the small business. Nor has it articulated a reason for distinguishing between the two. Most rural telephone companies also meet the Commission's definition of a small telephone company or the SBA definition of a small business. If a rural telephone company is also a small business it should certainly be allowed to bid on licenses covering territories outside its own service area.³¹

C. Small Telephone Companies Have Fewer than
50,000 Access Lines and Less than \$40 Million
in Revenue

TEC recommended in its comments that the Commission adopt one of the Commission's existing definitions of a small telephone company, one that would more accurately reflect the telecommunications industry than the proposed SBA definition. The

³¹ Indeed, in the event the Commission adopts the service area limit, the Commission must either clarify that the limit does not apply to those rural telephone companies which are small businesses or limit bidding by other small businesses and businesses owned by women and minorities to license areas where their headquarters or principal places of business are located.

Commission defines small telephone companies for purposes of filing tariffs as any local exchange carrier with annual revenues from regulated telecommunications operations of less than \$40 million, and 50,000 or fewer access lines.³² TEC's local exchange carriers meet this definition.

The SBA itself agreed that the Commission's tentatively proposed reliance on the SBA definition was not adequate in the context of PCS.³³ Noting the definition of a Tier 3 local exchange carrier, SBA recommended a revenue standard of \$40 million. TEC's only comment on the loosening of its own proposed standard (which included a 50,000 access line limit), is that the revenues consist of, as they do under current rules, annual revenues from regulated telecommunications operations.

IV. BIDDING METHODS SHOULD NOT FORECLOSE POSSIBILITIES FOR RURAL AND SMALL TELEPHONE COMPANIES TO AGGREGATE THEIR BIDS AND TO BID ON THE BASIS OF FULL INFORMATION

A. Designated Entities Should be Allowed to Submit Combinatorial Bids and to Act in Consortia

The commenters agree that designated entities should be allowed to submit combinatorial bids.³⁴ Some commenters oppose the implementation of combinatorial bidding to bid for all MTAs in the

³² 47 C.F.R. §§ 61.39(a), 69.602(a)(3).

³³ Comments of SBA at 8-9.

³⁴ See, e.g., Comments of Calcell Wireless, Inc. at 16, PP Docket No. 93-253, filed Nov. 10, 1993.

nation.³⁵ Others oppose the use of any combinatorial bidding at all.³⁶

The argument that combinatorial bidding would undercut the Congressional goal of licensing a wide variety of service providers³⁷ is inapposite in the context of the set-aside spectrum. A wide variety of applicants will be participating in the bidding on the set-aside channels. If combinatorial bidding by designated entities enables them to pool their limited financial resources, then the goal of diversity is not thwarted.

Nor is it a concern that the Commission might have to define the combination for which applicants will bid.³⁸ The Commission defines boundaries all the time. Administrative difficulties may be kept to a minimum if the Commission defines the combinations beforehand. Regional bidding has supporters.³⁹ Some suggest that combinatorial bidding be allowed on all BTAs within an MTA.⁴⁰ Even if the Commission does not establish specific boundaries for combination bids, comparisons of different size aggregations may

³⁵ See, e.g., AT&T's Comments at 4-8; Initial Comments of Southwestern Bell ("Southwestern Bell") at 22-25, PP Docket No. 93-253, filed Nov. 10, 1993.

³⁶ See, e.g., Comments of BellSouth at 6.

³⁷ See, e.g., Comments of BellSouth at 8.

³⁸ See Comments of BellSouth at 10.

³⁹ See, e.g., Comments of Ameritech at 4, PP Docket No. 93-253, filed Nov. 10, 1993; Comments of GTE at 7 n. 16, PP Docket No. 23-253, filed Nov. 10, 1993.

⁴⁰ See, e.g., Comments of American Personal Communications ("APC") at 2-3, PP Docket No. 23-253, filed Nov. 10, 1993; Comments of Rochester Telephone Corporation at 10, PP Docket No. 23-253, filed Nov. 10, 1993.

still be made. Moreover, the Commission could, as suggested by Nextel, allow the market to determine the combinations.⁴¹

Finally, as recommended by the SBA, consortia and combinatorial bidding will benefit designated entities.⁴² If designated entities intend to bid on more than one BTA or more than one channel block, they may band together to attract capital and obtain economies of scale. Some designated entities may need to form consortia to bid on a single BTA. The SBA's proposal comports with that in TEC's comments. The Commission should deem any consortium consisting entirely of small businesses eligible for any preferences even if the combined attributes of the consortium exceed the limits of small business eligibility.⁴³ TEC believes that this reasoning should apply to any designated entity, not just small businesses.⁴⁴

B. The Commission Should Structure the Bidding Sequence so that Applicants Bid upon the Smaller and Smallest Markets Last

TEC agrees in part with the Commission's plan to auction the largest spectrum licenses first, in order of population. After reviewing comments on this question, TEC is of the opinion that the

⁴¹ Comments of Nextel Communications, Inc. ("Nextel") at 10, PP Docket No. 93-253, filed Nov. 10, 1993; see also Comments of Ameritech at 4-5.

⁴² Comments of SBA at 11-12.

⁴³ Comments of SBA at 11-12.

⁴⁴ Moreover, upon further reflection, TEC admits that designated entity consortia need not be wholly composed of designated entities. So long as consortia are majority-owned and controlled by designated entities, they should not lose their designated entity status merely because they obtain capital financing from entities which are not designated entities.

Commission should conduct its auctions state by state, starting with the most populous, and auction all the spectrum blocks for that state, starting with the largest. Other commenting parties agree with the basic principle of auctioning all channels within a market before auctioning the next market.⁴⁵ Not only would this allow licensees to determine where they are able to establish hubs, but it will provide information to smaller applicants concerning the values placed upon various markets. Larger carriers have the resources, and some have the cellular experience, necessary to determine the value of any given market. Not all smaller carriers have these advantages and they cannot afford to overvalue their bids.

Several commenting parties agreed with the Commission's proposal to sequence bids by population.⁴⁶ AT&T saw the advantages of establishing hubs.⁴⁷ The SBA recommended that the Commission hold any auction reserved for designated entities last.⁴⁸ As the SBA pointed out, applicants "will need time to study the market, obtain financing, and if necessary, develop joint ventures. For designated entities, most of which have relatively small staffs, performance of these tasks in an expedited timeframe may be

⁴⁵ Comments of APC at 5.

⁴⁶ See, e.g., Initial Comments of Unique Communications Concepts at 7, PP Docket No. 93-253, filed Nov. 10, 1993; Comments of Nextel at 7-8 (although advocating that BTAs be auctioned before MTAs, recommending that the licenses for the largest markets be offered first).

⁴⁷ AT&T's Comments at 9.

⁴⁸ Comments of SBA at 40.

impossible."⁴⁹ A delay for designated entities would allow more bid preparation time and give designated entities a better sense of the market.⁵⁰

Others want bidding on the smallest market first.⁵¹ And some propose bidding on all licenses in a geographic area at the same time.⁵² Neither of these approaches would allow smaller applicants to learn from earlier bids.

C. The Commission Should Deny Requests to Differentiate between Designated Entities in Setting Aside Spectrum

Some commenters have suggested delegating rural telephone companies to less advantageous spectrum.⁵³ Proposals range from limiting rural telephone companies to 10 MHz at Channel D⁵⁴, to enlarging Channel C and moving rural telephone companies to a 20 MHz Channel D⁵⁵, to a 20 MHz Channel C for minorities only.⁵⁶

The rationale for these proposals is that rural telephone companies are big business.⁵⁷ TEC has not found that to be the

⁴⁹ Id.

⁵⁰ Id.

⁵¹ See, e.g., Comments of MCI Telecommunications Corp. at 10, PP Docket No. 93-253, filed Nov. 10, 1993.

⁵² See, e.g., Comments of BellSouth at 12-14.

⁵³ See, e.g., Comments of Calcell at 22; Comments of the Minority PCS Coalition at 8, PP Docket No. 93-253, filed Nov. 10, 1993.

⁵⁴ Comments of Calcell at 22.

⁵⁵ Comments of Unique Communications Concepts at 5, PP Docket No. 93-253, filed Nov. 10, 1993.

⁵⁶ Comments of the Minority PCS Coalition at 7-8, PP Docket No. 93-253, filed Nov. 10, 1993.

⁵⁷ Comments of Calcell at 22.

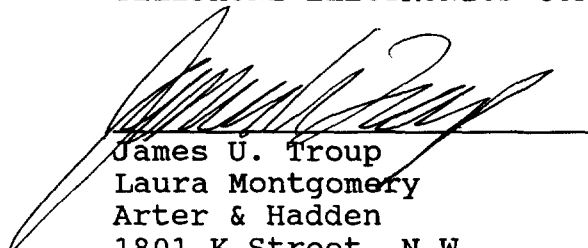
case. It has also been suggested that rural telephone companies have access to capital by virtue of their monopoly positions.⁵⁸ Rural telephone companies would not, however, be offering PCS as a monopolist and would thus not be attracting capital for a monopoly service. The Commission's current spectrum allocation scheme contemplates seven different licensees in any given geographic area, which means that capital may be primarily available to only very large service providers. Rather than placing rural telephone companies in a ghetto, the Commission should treat them on an equal basis with other entities designated by Congress for preferential treatment.

V. CONCLUSION

For these reasons, Telephone Electronics Corporation respectfully requests that the Commission set aside spectrum blocks for all lawful designated entities as described in these reply comments.

Respectfully submitted,

TELEPHONE ELECTRONICS CORPORATION



James U. Troup
Laura Montgomery
Arter & Hadden
1801 K Street, N.W.
Washington, D.C. 20006
(202) 775-7960

Its Attorneys

November 30, 1993

LDM-1553

⁵⁸ Comments of Calcell at 21.

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 1993, a copy of the foregoing Reply Comments of Telephone Electronics Corporation was served on the following parties by first-class mail, postage prepaid.

Chairman Reed E. Hundt
Fed. Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Fed. Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Commissioner Andrew C. Barrett
Fed. Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Ervin S. Duggan
Fed. Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Brian Fontes, Esq.
Fed. Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Linda L. Oliver, Esq.
Fed. Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Madelon A. Kuchera, Esq.
Fed. Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Ms. Kathleen Levitz
Chief, Common Carrier Bureau
Fed. Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Robert M. Pepper, Esq.
Office of Plans & Policy
Fed. Communications Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Thomas P. Stanley
Chief Engineer
Fed. Communications Commission
2025 M Street, N.W., Room 7002
Washington, D.C. 20554

David Cosson, Esq.
L. Marie Guillory, Esq.
National Telephone Cooperative
Association
2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
Counsel for NTCA

David J. Kaufman, Esq.
Lorretta K. Tobin, Esq.
Brown Nietert & Kaufman, Chtd.
1920 N Street, N.W.
Suite 660
Washington, D.C. 20036
Counsel for Minority PCS
Coalition

Lisa M. Zaina, Esq.
Mr. Matthew L. Dosch
OPASTCO
21 Dupont Circle, N.W.
Suite 700
Washington, D.C. 20036
Counsel for OPASTCO

Mr. Albert H. Frazier, Jr.
President & CEO
Calcell Wireless, Inc.
2723 Easton Drive
Burlingame, CA 94010
Counsel for Calcell
Wireless, Inc.

Larry Blosser, Esq.
Donald J. Elardo, Esq.
MCI Telecommunications
Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Doris S. Freedman, Esq.
Barry Pineles, Esq.
Office of Advocacy
United States Small Business
Administration
409 3rd Street, S.W.
Washington, D.C. 20554
Counsel for Small
Business Administration

J. Jeffrey Craven, Esq.
Besozzi, Gavin & Craven
1901 L Street, N.W.
Suite 200
Washington, D.C. 20036
Counsel for Unique
Communications Concepts

Richard M. Tettelbaum, Esq.
Gurman, Kurtis, Blask &
Freedman, Chartered
1400 16th Street, N.W.
Suite 500
Washington, D.C. 20036
Counsel for CFW
Communications Company,
Denver and Ephrata
Telephone and Telegraph
Company and Lexington
Telephone Company

Francine J. Berry, Esq.
Steven R. Davis, Esq.
Richard H. Rubin, Esq.
Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920
Counsel for AT&T

Robert S. Foosaner
Lawrence R. Krevor
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Washington, D.C. 20037
Counsel for Nextel
Communications, Inc.

William B. Barfield
Jim O. Llewellyn
1155 Peachtree Street, N.E.
Atlanta, Georgia 30367-6000
Counsel for BellSouth
Corporation, BellSouth
Telecommunications, Inc.,
BellSouth Cellular Corp.,
and Mobile Communications
Corporation of America

Charles P. Featherstun, Esq.
David G. Richards, Esq.
1133 21st Street, N.W.
Washington, D.C. 20036
Counsel for BellSouth
Corporation, BellSouth
Telecommunications, Inc.,
BellSouth Cellular Corp.,
and Mobile Communications
Corporation of America

Jay C. Keithley, Esq.
Leon M. Kestenbaum, Esq.
1850 M Street, N.W.
Suite 1100
Washington, D.C. 20036
Counsel for Sprint
Corporation

Kevin C. Gallagher, Esq.
8725 Higgins Road
Chicago, Illinois 60631
Counsel for Sprint
Corporation

W. Richard Morris, Esq.
P.O. Box 11315
Kansas City, Missouri 64112
Counsel for Sprint
Corporation

Leonard J. Kennedy, Esq.
Laura H. Phillips, Esq.
Richard S. Denning, Esq.
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Washington, D.C. 20037
Counsel for Comcast
Corporation

Wayne V. Black, Esq.
Christine M. Gill, Esq.
Marc Berejka, Esq.
Keller and Heckman
1001 G Steet, N.W.
Suite 500 West
Washington, D.C. 20001
Counsel for The American
Petroleum Institute

Randall B. Lowe, Esq.
Mary E. Brennan, Esq.
Jones, Day, Reavis & Pogue
1450 G Street, N.W.
Washington, D.C. 20005
Counsel for CenCall
Communications
Corporation

Eliot J. Greenwald, Esq.
Fisher, Wayland, Cooper and
Leader
1255 23rd Street, N.W.
Suite 800
Washington, D.C. 20037
Counsel for John G.
Andrikopoulos, et al.

Gene A. Bechtel, Esq.
Bechtel & Cole, Chartered
Suite 250
1901 L Street, N.W.
Washington, D.C. 20036
Counsel for MW TV, Inc.

Peter Arth, Jr., Esq.
Edward W. O'Neill, Esq.
Ellen Levine, Esq.
505 Van Ness Avenue
San Francisco, CA 94102
Counsel for the Public
Utilities Commission of
the State of California

Gustave Tappe
Vice President, Operations
Telepoint Personal
Communications, Inc.
405 Broad Avenue
Palisades Park, NJ 07650

Richard L. Vega, Jr.,
President
Phase One Communications, Inc.
3452 Lake Lynda Drive, #115
Orlando, Florida 32817

Harold K. McCombs, Jr.
Duncan, Weinberg, Miller &
Pembroke, P.C.
1615 M Street, N.W.
Suite 800
Washington, D.C. 20036

Jeffrey L. Sheldon, Esq.
Sean A. Stokes, Esq.
Utilities Telecommunications
Council
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036

Ray L. Hayes, President
Systems Engineering, Inc.
1851 Alexander Bell Dr., #104
Reston, Virginia 22091
Counsel for Systems
Engineering, Inc.

Philip F. Otto
Chairman and CEO
California Microwave, Inc.
990 Almanor Avenue
Sunnyvale, California 94086
Counsel for California
Microwave, Inc.

Michael G. Oliva
Loomis, Ewert, Ederer,
Parsley,
Davis & Gotting
232 S. Capitol Avenue
Suite 1000
Lansing, Michigan 48933
Counsel for Telephone
Association of Michigan